

**AN ORDINANCE
BY COUNCILMEMBER DERRICK BOAZMAN
AS SUBSTITUTED BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION
COMMITTEE**

AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE I, SECTION 10-1 OF THE CITY OF ATLANTA CODE OF ORDINANCES TO DELETE THE CURRENT DEFINITION FOR THE TERM "PRIVATE CLUB"; TO INSERT IN LIEU THEREOF A NEW DEFINITION FOR THE TERM "PRIVATE CLUB"; TO AMEND CHAPTER 10, ARTICLE II, DIVISION 2, SECTION 10-48; TO AMEND CHAPTER 10, ARTICLE II, DIVISION 5, SECTION 10-207; TO AMEND CHAPTER 10, ARTICLE II, DIVISION 5, SECTION 10-209, SUBSECTIONS (C) AND (D) TO AMEND THE HOURS IN WHICH ALCOHOLIC BEVERAGES CAN BE SOLD IN PRIVATE CLUBS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta has an interest in protecting the public safety and general welfare and is able to do so through the regulation of the sale of alcohol; and

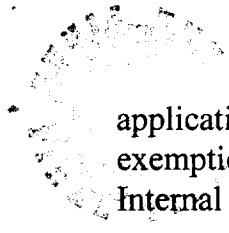
WHEREAS, it is the stated purpose of the City 's Alcohol Code that the City establish reasonable and ascertainable standards for the regulation and control of the licensing and sales of alcohol while preserving residential areas and promoting desirable living conditions and sustaining stability of neighborhoods and property values; and

WHEREAS, the current definition of the term "private club" in the City's Alcohol Code authorizes establishments which have been exempted from having to pay federal income tax pursuant to Section 501(c) of the Internal Revenue Code to sell alcoholic beverages for on premises consumption if they meet certain requirements as provided in the Section 10-1; and

WHEREAS, the current definition of the term "private club" in the City's Alcohol Code authorizes establishments which were licensed as private clubs on the date the current definition of the term "private club" became effective to be exempt from having to provide written documentation of their exemption from federal income tax pursuant to Section 501(c) of the Internal Revenue Code; and

WHEREAS, certain establishments which may not be exempt from paying federal income taxes pursuant to Section 501(c) of the Internal Revenue Code have been able to continue to obtain licenses in the City of Atlanta to sell alcoholic beverages as private clubs; and

WHEREAS, the City of Atlanta desires to require that all establishments filing



applications to sell alcoholic beverages as private clubs provide written documentation of their exemption from the payment of federal income taxes pursuant to Section 501(c) of the Internal Revenue Code; and

WHEREAS, Section 10-209 of the City's Alcoholic Beverage Code provides that alcoholic beverages may only be sold during certain hours in establishments licensed to sell alcohol but further provides an exemption for those establishments licensed as private clubs; and

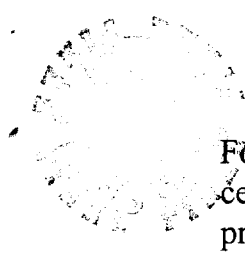
WHEREAS, the exemption does not promote desirable living conditions or assist in preserving residential areas or sustaining the stability of neighborhoods and property values; and

WHEREAS, the City of Atlanta desires to ensure that the purpose of the City's Alcohol Code is not frustrated by continuing to allow private clubs to sell alcoholic beverages at hours different from those hours during which other establishments may sell alcoholic beverages; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

Section 1. That Chapter 10, Article I, Section 10-1 be amended to delete the current language and to insert in lieu thereof the following language:

Private club means a corporation chartered, organized and existing under the laws of the state, exempt from federal income taxes pursuant to section 501(c) of the Internal Revenue Code, as amended, actively and continuously in operation within the city as a nonprofit corporation for at least one year immediately prior to the application for a license under this chapter and during which time such corporation shall have had continuously not less than 250 members whose names, current addresses and current telephone numbers shall be kept listed on the club premises and made available for inspection on the premises by the Atlanta Police Department during all hours during which the private club is open for business, which members shall have regularly paid monthly, quarterly, semiannual or annual dues. In no event shall dues be paid on a daily basis. All applications for either a new or renewal license to sell alcoholic beverages by a private club for the year 2001 and all years thereafter must be accompanied by proof from the Internal Revenue Service that the corporation seeking such license is deemed exempt from federal income taxes by the Internal Revenue Service at the time of application for the new or renewal license. In addition, the corporation shall be required to submit its most recent



Form 990 Return of Organization Exempt From Income Tax as certified by a certified public accountant. Furthermore, the corporation shall maintain on its premises any additional federal and state income tax returns filed by the corporation within the past three years and shall make such documents available for inspection upon request by the Atlanta Police Department during all hours during which the private club is open for business. In the event that a corporation licensed as a private club for any given year loses its 501(c) exemption, such private club must inform the Licenses and Permits Unit in writing of such change in status within fifteen (15) days of the change in status. The failure to provide in writing notification of such change in status within fifteen (15) days, in addition to the violation of any other provision of this Chapter, shall be grounds for the denial, suspension or revocation of said license and/or the implementation of a fine of up to \$1,000 against the corporation. The corporation shall be operated exclusively for pleasure, recreation and other nonprofitable purposes, but in no event shall the corporation have as its primary purpose the operation of an establishment licensed for the sale of alcoholic beverages. No part of the net earnings of the corporation shall inure to the benefit of any member, director or officer. During the period of time prior to the time of application, the corporation shall have owned, hired or leased a building having kitchen and dining room space therein for the reasonable use of its members and shall have maintained sufficient personnel and equipment to prepare on the premises and serve hot meals, which hot meals shall have been served and shall continue to be served at least once per day at least six days per week. After an establishment has been granted private club status from the city, these requirements as to meal preparation, kitchen equipment and dining room facilities shall continue in effect. No member, director, officer, agent, or employee of the club shall be paid or directly or indirectly, receive, in the form of salary or other compensation, any profits from the sale of alcoholic beverages by or to the club or its members or guests, except such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club. The nonprofit corporation must be the sole owner and operator of the private club. Prior to the date of application, no nonprofit corporation shall have transferred, either directly or indirectly, by sale, lease or otherwise, any ownership, or any interest in the nonprofit entity or its assets (other than in the ordinary course of business), or the right to manage the private club in order to obtain its license to sell alcoholic beverages. Nor shall any nonprofit corporation transfer, during the time that the nonprofit corporation holds a license pursuant to this Chapter, any such interest or right.

Section 2. That Chapter 10, Article II, Section 10-48 be amended to create a new subsection to be known as (e) which shall include the following language:

(e) In addition to the above requirements, an applicant for a new or renewal license to sell alcoholic beverages as a private club, as defined in Section 10-1, shall submit the names, addresses, and telephone numbers of each of its officers and directors of the private club, and of any other person(s) who will manage, operate, direct, supervise or otherwise have any control over the day to day operations of the private club, including the sale of alcoholic beverages. Such information shall be submitted to the Licenses and Permits Unit on a quarterly basis by the first day of each of the following months: January, April, July, and October. Furthermore, the applicant must submit the minutes of any meeting held during the prior 12 months at which time the salary of any member, director, officer, agent, or employee of the corporation has been set. The failure of the applicant to submit the information set forth herein shall be grounds for denial, suspension, revocation of the license and/or the implementation of a fine of up to \$1,000.

Section 3. That Chapter 10, Article II, Division 5, Section 10-109(a) be amended to delete the first sentence of said subdivision and to insert in lieu thereof new language which shall read as follows:

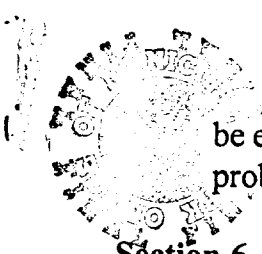
(a) As used in this chapter, the term “due cause” for the denial of applications for all new alcoholic beverage licenses, or for the transfer of location or the transfer of ownership, or for revocation, suspension or refusal to renew any license, or for the assessment of a fine in regard to any license includes but is not limited to the following:

Section 4. That Chapter 10, Article II, Division 5, Section 10-109 be amended to create a new subdivision to be known as (i) which shall read as follows:

(i) The provisions of Section 10-109 shall supercede any and all other provisions of the City Code of Ordinances with which there exists a conflict.

Section 5. That Chapter 10, Article II, Division 5, Section 10-207 be amended to delete certain language from the current provision so that said section shall read as follows:

No licensee under this chapter shall employ in any premises for the sale of alcoholic beverages or the operation of a bottle house any person in any capacity except performers, entertainers and musicians, who have been convicted in this or any other country within three years immediately prior to the application for employment of soliciting for prostitution, keeping a disorderly place, unlawfully dealing in narcotics, sex offense or other charge relating to the manufacture or sale of alcoholic beverages or any other crime involving moral turpitude. No such person shall



be employed by the licensee if this employment would violate the terms of any probation or parole of the person.

Section 6. That Chapter 10, Article II, Division 5, Section 10-209(c) be amended to delete the last sentence in said subsection and insert in lieu thereof the following sentence:

(c) ... This section shall apply to private clubs, as defined by Code Section 10-1, except as provided by O.C.G.A. §3-7-2.

Section 7. That Chapter 10, Article II, Division 5, Section 10-209(d) be amended to delete the last sentence in said subsection and insert in lieu thereof the following sentence:

(d) ... This section shall apply to private clubs, as defined by Code Section 10-1, except as provided by O.C.G.A. §3-7-2.

Section 8. For purposes of this ordinance, the provisions of this ordinance shall supercede any other ordinance or part thereof in conflict herewith.

Section 9. If any provision, clause, sentence or paragraph of this ordinance, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this Article which can be given effect without the invalid provisions or application and, to this end, the provisions of this ordinance are hereby declared to be severable.

Section 10. This ordinance shall become effective on April 30, 2001 and all private clubs shall be in compliance herewith on that date. The annual license fee shall be prorated for the year 2001 only. Any licenses previously issued for 2001 shall be valid only through April 30, 2001.

OMC – Amendment Incorporated by tcp 3/30/01

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED as amended by the Council
APPROVED by the Mayor

MAR 19, 2001
MAR 27, 2001

State of Georgia

County of Fulton

AFFIDAVIT

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths, Robert L. Pitts, who, after being duly sworn, deposes and on oath states the following:

- (1) I was the presiding officer of a meeting of the [_____ Committee/Atlanta City Council] held on March 19, ²⁰⁰¹~~2000~~ ^{RDJ}.
- (2) That it is my understanding that O.C.G.A. § 50-14-4(b) provides as follows:
When any meeting of an agency is closed to the public pursuant to subsection (a) of this Code section, the chairperson or other person presiding over such meeting shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.
- (3) A portion of the meeting held on March 19, ²⁰⁰¹~~2000~~ ^{RDJ}, was closed for the purpose of meeting with the City Attorney regarding potential litigation involving license & private clubs. The meeting was for discussion allowed by O.C.G.A., Title 50, Chapter 14. The closed portion of the meeting was devoted solely to matters within the attorney client privilege as allowed by law. O.C.G.A. § 50-14-2. The specific subsection which authorizes closure in this instance is O.C.G.A. § 50-14-2(1).
- (4) This affidavit is being executed for the purpose of complying with the mandate of O.C.G.A. § 50-14-4(b) that such an affidavit be executed.

This, the 19th day of March, ²⁰⁰¹~~2000~~ ^{RDJ}.

Sworn to and subscribed before me
this, the 19th day of March, ²⁰⁰¹~~2000~~

Pinky A. Rutledge
Notary Public

Pinky A. Rutledge
Notary Public, Fulton County, Georgia
My commission expires February 16, 2004

Robert L. Pitts
Name: Robert L. Pitts
Title: President of Council

RCS# 2731
3/19/01
3:48 PM

Atlanta City Council

Regular Session

01-O-0096 Amend Code Regarding Private Clubs
 Hrs. Alcohol can be sold
 ADOPT/SUB/AMEND

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

NV McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	B Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

CORRECTED COPY

01-0-0096

(Do Not Write Above This Line)

AN ORDINANCE

COUNCILMEMBER DERRICK BOAZMAN

AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE I, SECTION 10-1 OF THE CITY OF ATLANTA CODE OF ORDINANCES TO DELETE THE CURRENT DEFINITION FOR THE TERM "PRIVATE CLUB"; TO INSERT IN LIEU THEREOF A NEW DEFINITION FOR THE TERM "PRIVATE CLUB"; TO AMEND CHAPTER 10, ARTICLE II, DIVISION 2, SECTION 10-48; TO AMEND CHAPTER 10, ARTICLE II, DIVISION 5, SECTION 10-207; TO AMEND CHAPTER 10, ARTICLE II, DIVISION 5, SECTION 10-209 SUBSECTIONS (C) AND (D); TO AMEND THE HOURS IN WHICH ALCOHOLIC BEVERAGES CAN BE SOLD IN PRIVATE CLUBS; AND FOR OTHER PROPOSES

As Amended

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☒ PERSONAL PAPER REFER

Date Referred

1/16/01

Referred To:

Public Safety & Legal Affairs

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee

Date

Chair

Referred to

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☒ 2nd

☐ 1st & 2nd

☐ 3rd

Readings

☐ Consent

☐ V Vote

☒ RC Vote

CERTIFIED

CERTIFIED
 MAR 19 2001

ATLANTA CITY COUNCIL PRESIDENT

[Signature]
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED
 MAR 27 2001
 MAYOR